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REED SMITH, LLP
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NEW YORK, NY 10022-7650

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| EXAMINER |
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MERLINO, ALYSON MARIE

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| ART UNIT | PAPER NUMBER |
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3673

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10/09/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/582,205

Applicant(s)

RAMSAUER ET AL.

Examiner

Alyson M. Merlino

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 June 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 20-40 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 20-40 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 June 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date <u>8 June 2006</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the drive toothed wheel 18 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

2. The drawings are objected to because Figures 6A, 6B, and 6C include extraneous wording, such as "Saw-proofing protection", and the drawings do not include

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the stop for the protuberance 37 discussed in paragraph 46 of the specification.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

3. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: shaped out portion 35. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be

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labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. **Claims 20-40 are rejected** under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Specifically, within the specification the drive toothed wheel 18 is discussed as a separate entity from the driven toothed wheel 26, but the figures do not show the drive toothed wheel in conjunction with the other components of the device. Figure 3 points out a wheel as "18,26" however, only one toothed wheel is shown in the figure. Furthermore, it is apparent from figures 4A and 4B that the wheel shown in Figure 3 is driven toothed wheel 26 since the protuberance 37 is shown in engagement in circular groove 29. For examination purposes, it will be considered that the device includes one driven toothed wheel since it is unclear how the drive toothed wheel 18 discussed in the specification is incorporated into the device until further clarification from applicant.

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6. **Claim 30 is rejected** under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Specifically, the specification has no mention of the possibility that the lock element can be made of a metal part with a coating of a material. For examination purposes, it will be considered that the lock element can be a metal part.

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. **Claims 20, 24, 27-30, and 34-36 are rejected** under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

9. **The phrase "favorable sliding properties" in claim 27** and the phrase "good sliding properties" in claims 29 and 30 are relative phrases render the claims indefinite. The phrases "favorable sliding properties" and "good sliding properties" are not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. For examination purposes, it will be considered that the lock element can move in accordance with the invention for all the materials discussed in the claims until further clarification from applicant.

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10. **The term "closing forces" in claim 28** is a relative term which renders the claim indefinite. The term "closing forces" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

Specifically, it is unclear what forces applicant is referring to in the claim, therefore, for examination purposes, the claim will be given a broad interpretation until further clarification from applicant.

11. **The phrase "so as to be rigid against rotation" in claims 20, 24, and 36** is a relative phrase which renders the claims indefinite. The phrases "so as to be rigid against rotation" is not defined by the claims, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. For example, it is unclear whether the driven toothed wheel is rigid against rotation with respect to the moving components of the device or the mandrel on which the toothed wheel is placed. For examination purposes, it will be considered that the driven toothed wheel is rigid against rotation with respect to the mandrel on which it is mounted for rotation with respect to the other components of the device until further clarification from applicant.

12. **In regards to claims 34 and 36**, the phrase "hard material" does not provide a clear material limitation to the claims, therefore, for examination purposes, the claim will be given a broad interpretation until further clarification from applicant.

13. **Claim 35** recites the limitation "the inner contour" in line 2 of the claim. There is insufficient antecedent basis for this limitation in the claim.

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14. **In regards to claim 20**, the phrase "handle lever" is unclear since it is well known in the art that a lever is a type of handle. For examination purposes, the claim will be given a broad interpretation until further clarification from applicant.

15. **Claim 36 recites** the limitation "the cylinder axis" in line 3 of the claim. There is insufficient antecedent basis for this limitation in the claim.

Claim Objections

16. **Claims 20-22 objected** to because of the following informalities:

a. **In regards to claim 20**, the examiner suggests that the phrase "one or more lock elements which is/are held" should be changed to "at least one lock element which is held" for clarity. The second instance of the phrase "is/are" in claim 20 should be "is" in order to correlate with the previously suggested change.

b. **In regards to claims 21 and 22**, the phrase "displaceable axially" should be changed to "axially displaceable" in order to be grammatically correct.

c. **In regards to claim 28**, the phrase "a housing contour" should be changed to "the housing contour" since the housing contour is recited in claim 27.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

17. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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18. **Claims 20-32, 39, and 40 are rejected (as best understood) under 35 U.S.C. 102(b) as being anticipated by Fisher (US-959494).**

19. **In regards to claim 20,** Fisher discloses a fastener for multiple locking of doors or wall portions in housings or cabinets including a lockable actuation member 19, such as a handle (Figure 1), a lock rod 18 which is supported in the door so as to be axially displaceable (apparent from Figure 1) with teeth (portioned engages gear 15a, Figure 2) on a least one side, and at least one lock element 6 which is held in the door so as to be rotatable or swivelable (apparent from Figure 4) which is coupled with the lock rod (Figure 1). Fisher further discloses that for each lock element, a driven toothed wheel 15 is connected to the lock element against rotation (Figure 5) and engages with the tothing of the lock rod (Figures 1 and 5). Fisher also discloses that the driven toothed wheel is held on the door in a rotatable manner in order to coupled the lock rod with the at least one lock element (Figures 1 and 5).

20. **In regards to claim 21,** Fisher discloses that the lock rod is supported so as to be axially displaceable in a plurality of separate metal guide parts 17.

21. **In regards to claim 22,** Fisher discloses that the lock rod is supported so as to be axially displaceable, and is guided in an elongated metal profile (profile created by component 17, Figure 2).

22. **In regards to claim 23,** Fisher discloses that the lock rod is guided near the edge of the door (Figure 1).

23. **In regards to claim 24,** Fisher discloses that a lock element is arranged on the driven toothed wheel (Figure 5).

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24. **In regards to claims 25 and 26**, Fisher discloses that the lock element includes a bent and/or shaped sheet metal lug 5 which can be swiveled in behind a housing contour 12 or cabinet frame contour (Figure 4).

25. **In regards to claims 27, 29, and 30**, Fisher discloses that the lock element includes a metal carrier part 3 on which a shaped part 5 made of a material so that the shaped part can slide so as to be swiveled in behind a housing contour 12 or cabinet frame contour (Figure 4).

26. **In regards to claim 28**, Fisher discloses that the shaped part which is arranged on the lock element for engaging behind the housing contour or cabinet frame contour has a curved contour (contour shown near reference character 5, Figure 5) which enables a long closing path (apparent from Figure 1).

27. **In regards to claims 31 and 40**, Fisher discloses that the metal profile has a "substantially" U-shaped cross section (cross section shown in Figure 3) which encloses the lock rod and toothed wheels (Figure 2).

28. **In regards to claim 32**, Fisher discloses that the U-shaped profile can be closed by a cover (cover created by portion 10, Figure 3).

29. **In regards to claim 39**, Fisher discloses that the lock rod is guided in such a way that it lies between the door frame and the toothed wheel (apparent from Figures 1-3).

Claim Rejections - 35 USC § 103

30. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

31. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

32. **Claims 33-36 and 38 are rejected** under 35 U.S.C. 103(a) as being unpatentable over Fisher (US-959494) in view of Segawa (US Pub. No. 2003/0024285 A1).

33. **In regards to claim 33**, Fisher discloses the fastener as applied to claims 20-32, 39, and 40 above, but fails to disclose that the actuation member includes a swivel lever that can be folded into a trough arranged on the door. Segawa teaches an actuation member (Figure 5) or handle including a swivel lever 13 that can be folded into a trough 1 arranged on a door 2. Since the replacement of the actuation member or handle disclosed by Fisher with the handle taught by Segawa would not hinder the ability of the toothed wheel engaging the lock bar, it would have been obvious to one of ordinary skill in the art at the time the invention was made to replace the handle disclosed by Fisher with the handle taught by Segawa since it handle taught by Segawa would rotate in the

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same manner as the handle disclosed by Fisher and since the handle of Fisher and the handle of Segawa are considered as art recognized equivalents, it would have been obvious to one of ordinary skill in the exercise art to substitute one for the other.

34. **In regards to claim 34**, Segawa teaches that the trough includes saw-proofing protection 24 made of a hard material (Figure 7).

35. **In regards to claim 35**, Segawa teaches that the saw-proofing protection can also be retrofitted into an inner contour (portion near reference character 27, Figure 5) of the swivel lever.

36. **In regards to claim 36**, Segawa teaches that the saw-proofing protection is a cylindrical pin (Figure 7) of a hard material, and is supported in the handle lever so as to be rotatable around a cylinder axis (axis through pin. Figure 7).

37. **In regards to claim 38**, Segawa teaches that the trough has shallow sloping outer side walls (apparent from Figure 1).

38. **Claim 37 is rejected** under 35 U.S.C. 103(a) as being unpatentable over Fisher (US-959494) in view of Segawa (US Pub. No. 2003/0024285 A1) in further view of Jancsek (US-5862690).

39. **In regards to claim 37**, Fisher in view of Segawa discloses the fastener's handle as applied to claims 33-36 and 38 above, but fails to teach that the trough includes a lettering surface for displaying the rotating direction or other writing and/or symbols such as company logos. Jancsek teaches a handle (Figure 1) with a trough 22 that includes a lettering surface 34 for displaying writing and/or symbols such as a company logo 36. Since the inclusion of a letting surface on the trough of the handle taught by Segawa

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would not hinder the ability of the handle to actuate the fastener, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include a lettering surface in order to allow an individual to make the fastener aesthetically pleasing.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alyson M. Merlino whose telephone number is (571) 272-2219. The examiner can normally be reached on Monday through Friday, 7:30 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jennifer Gay can be reached on (571) 272-7029. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.


Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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AM *AM*
September 30, 2007


JENNIFER H. GAY
SUPERVISORY PATENT EXAMINER